

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

IN RE:

CIRCUIT CITY STORES, INC., *et al.*,
Debtors.

Chapter 11

Case No. 08-35653-KRH

Jointly Administered

**DONAHUE SCHRIBER REALTY GROUP, L.P.'S RESPONSE TO
LIQUIDATING TRUST'S TWENTIETH OMNIBUS
OBJECTION TO LANDLORD CLAIMS [Docket # 10072]**

Creditor Donahue Schriber Realty Group, L.P., a Delaware limited partnership ("DSRG"), hereby responds to Liquidating Trust's Twentieth Omnibus Objection to Landlord Claims ("Objection")

1. On November 10, 2008, Circuit City Stores, Inc. ("Debtor") and its related companies filed voluntary petitions for relief under Chapter 11 of the United State Bankruptcy Code.

2. DSRG timely filed its Administrative Expense Claim no. 12863 for post-petition rent and leasehold expenses in the amount of \$40,726.80.

3. DSRG has confirmed that, subsequent to the filing of its Administrative Expense Claim, Debtor did pay post-petition rent and leasehold expenses for March 1-10, 2009 in the amount of \$11,752.80. Therefore, DSRG's Administrative Expense Claim should be reduced to \$28,974.00.

4. Additionally, the Objection seeks to reduce DSRG's claim for post-petition attorneys' fees in the amount of \$4,685.00. Paragraph 23.17 of the Lease between Debtor and

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Counsel to Donahue Schriber Realty Group, L.P.

DSRG, a copy of which is attached to the Administrative Expense Claim filed by DSRG¹, provides that in a proceeding to enforce the terms of the Lease, the prevailing party is entitled to recover its reasonable costs and expenses in the proceeding. Bankruptcy is such a proceeding. DSRG was required to engage attorneys to enforce the terms of the Lease by gaining Debtors' payment of post-petition taxes and post- and pre-petition rent and leasehold expenses by the filing of its Proof of Claim and Administrative Expense Claim. Therefore, the inclusion of attorneys' fees is proper.

5. The foregoing averments are based upon the personal knowledge of the following individual:

Sheryl Beamer
Donahue Schriber Realty Group, LP
3501 Del Paso Boulevard, Suite 100
Sacramento, California 95835
(916) 920-5555

6. Pursuant to this Court's Order Establishing Omnibus Objection Procedures and Approving the Form and Manner of Notice of Omnibus Objection ("Order"), DSRG will provide such additional documentation as it may have upon request.

7. Pursuant to the Order, DSRG's notice address is identical with the address of the undersigned counsel.

WHEREFORE, Donahue Schriber Realty Group, LP prays that this Court enter and order (1) reducing the post-petition rent sought in DSRG's Administrative Expense Claim to \$28,974.00; (2) allow the claim for attorneys' fees pursuant to the Lease; and (3) grant DSRG such other and further relief as this Court may deem appropriate.

Dated: April 21, 2011

DONAHUE SCHRIBER REALTY GROUP, LP

By: /s/ Augustus C. Epps, Jr.
Augustus C. Epps, Jr., counsel

¹ Should the Court, Debtor or any other party request a copy of the Lease, it will be provided.

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DECLARATION OF JENNIFER L. PRUSKI

I, Jennifer L. Pruski, declare:

I am an attorney with Trainor Fairbrook and for Creditor Donahue Schriber Realty Group, L.P. As to the matters set forth herein, if called upon testify, I could and would competently testify thereto, for I know the matters to be true of my own personal knowledge or my review of the billing records related to this matter which are kept in the ordinary course of business.

I have reviewed the billing invoices and all the attorneys' fees related to time incurred after Debtors' filing of bankruptcy. The billing invoices related to our review of bankruptcy documents, handling of store closing issues, seeking out and corresponding with Debtor's counsel regarding the payment of post-petition property taxes, and filing the appropriate bankruptcy claims. It is my opinion that all of these tasks were required to enforce the terms of the Lease and therefore, is recoverable as post-petition administrative expenses pursuant to the contractual provision in the Lease.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on April 21, 2011 in Sacramento, California.



/s/ Jennifer L. Pruski
Jennifer L. Pruski

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of April 2011, a true and correct copy of the foregoing has been served electronically using the ECF system on all registered users of the CM/ECF system who have filed notices of appearance in this matter.

/s/ Augustus C. Epps, Jr.

Augustus C. Epps, Jr.

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